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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,769	10/13/2000	Steven A. Weiss	28265-PA	1069

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EXAMINER

YOO, JASSON H

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 05/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/687,769	Applicant(s) WEISS, STEVEN A.	
	Examiner Jasson Yoo	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

In view of the Appeal Brief filed on 9/21/05, PROSECUTION IS HEREBY REOPENED. New grounds of rejection set forth below (regarding claims 2-6, 9, 11-15).

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 7 and 10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The analysis of whether an invention is non-statutory is a two-prong test. The claimed invention must produce a

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useful, concrete, and tangible result. See, *State Street Bank and Trust Co. v. Signature Financial Group Inc.*, 149 F.3d at 1373, 47 USPQ2d at 1601-02 (Fed. Cir. 1998). A process that consists solely of the manipulation of an abstract idea is not concrete or tangible. See *In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed Cir. 1994). In this case, the claimed invention fails to produce a useful, concrete, and tangible result because it merely rearranges abstract data. Thus, the claims are rejected as non-statutory.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenny, U.S. 6,381,583 B1 (Apr. 30, 2002) in view of 'Casino Aztar', Casino Aztar, Evansville Indiana (1999) (hereinafter "Aztar").

Kenny discloses an interactive system for creating a virtual facility from an actual facility, such as a grocery store, restaurant, or office. See *abstract*. A customer at a remote computer can move through the virtual facility and see replicas of what would be

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seen in moving through the actual facility. *See id.* The invention is applicable to any provider of goods or services where customers typically go to an actual shop, office or other physical facility. *See col. 4:44-63.* Any type of environment may be depicted including one comprised of business machines. *See col. 5:7-13.* The particular limitations of the applicant's claims are discussed below.

Claims 1, 7 and 10: Kenny describes posting information about a plurality of devices on a wide area network (WAN); posting on the WAN information about particular promotions, goods and services; replacing promotions, goods and services with new ones; and allowing a prospective customer access from a remote location to search as a function of good or services type, individual customer status. *See fig. 1, 3-6, 9-10B; col. 1:40-56, 4:44-63, 5:7-13.* Kenny teaches all the limitations of the claims except having the facility be a casino where the facility's products are gaming devices, contests and awards. Regardless, these features would have been obvious to one of ordinary skill in the art of gaming in view of Azter.

Azter describes an Internet website for a casino whereat players may research the casino's products including its gaming devices, contests and awards. In view of Azter, it would have been obvious to a gaming artisan at the time of the invention to modify Kenny to add the features of providing information about a casino's gaming devices, contests and awards. As taught by Kenny, the modification would increase customer loyalty by providing exact descriptions of the casino's products, and enabling customers to become familiar with the products and changes at the actual facility. *See*

col. 1:57-65. In addition, the modification would enhance convenience for customers by allowing them to obtain information about products and services located at the actual casino in advance of a visit. *See col. 1:15.*

Claim 8. Kenny discloses posting new machines and products on a wide area network. *See col. 8:52-58.*

Claims 2, 6, 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenny in view of Aztar, as applied to claims 1, 7 and 10 above, in further view of Wiltshire et al., U.S. 6,409,602.

The gaming system suggested by Kenny in view of Aztar does not describe allowing a gaming proposition to be played remotely on a customer's computer and rewarding success. Wiltshire discloses an analogous system wherein remote customers participate in a gaming proposition remotely on the customer's computer and are rewarded for success. *See fig. 1a, 1d, 4a-9d.* Wiltshire's system offers a player a plurality of games (abstract, cols. 1:26-44, 2:22-65, 8:49-65) to be played at a remote game terminal (120, Fig. 1d, abstract, 1:51-2:65). The server (100 in Figs. 1a, 1d) provides the games to the gaming terminal through a network (Fig. 1, cols. 3:62-4:3). The gaming terminal may comprise of a wagering or betting acceptor device; 150 in Figs. 1a, 1d, col. 4:30-32). The player can win an award depending on the game and the player's wager (status board 620 in Fig. 6a, 750 in Fig. 7b, 890 in Fig. 8b, Fig. 9b,

940 in Fig. 9d). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the gaming system suggested by Kenny and Aztar, and incorporate Wiltshire system, wherein customers can remotely interact with actual gaming machines at a casino, to add the feature of allowing the customers to participate the gaming propositions on the customer's computer and be rewarded for their success. As suggested by Wiltshire, the modification would enhance the system by offering players to play a selection of games from a remote station (cols. 1:51-2:13, 8:49-65), and simplify the modifications and upgrades to the gaming programs (col. 2:14-65).

Claim 6. Kenny discloses providing updates machines and products under the aegis of the facility. See col. 8:52-58. Furthermore, Wiltshire discloses changing and updating the gaming program at the server (col. 2:14-65), downloaded by a gaming station (col. 1:51-57).

Claims 3-5, 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenny in view of Aztar and Wiltshire, as applied to claim 2 above, in further view of Golden et al., U.S. 5,761,648 (Jun. 2, 1998).

Claims 3, 14: The gaming system suggested by Kenny in view of Aztar and Wiltshire does not describe the use of digital vouchers. Regardless, this feature was known in the art at the time of the invention and would have been obvious to an artisan. For example, Golden discloses an analogous system for performing transactions over a

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network which issues customers digital vouchers. In view of Golden, it would have been obvious to an artisan at the time of the invention to modify the gaming system suggested by Kenny in view of Aztar and Wiltshire, wherein player awards are transmitted to a player's account, to transfer the awards to players using digital vouchers. As taught by Golden, the modification would enhance the system allowing the operator to control the use, tracking, selection and redemption of the awards. See *col. 1:51-64*. Furthermore, using vouchers would allow the operator to use the awards a promotional means for its goods and services. See *id.*

Claims 4 and 13: Golden describes rewarding success by transporting a manifestation commemorating success to a player designated locale. See *col. 4:8-39*.

Claim 5: Golden describes allowing redemption of an award in person. See *fig. 1*.

Claim 15. Wiltshire discloses displaying the rewards, contests and promotions in the casino on a gaming machine (Figs. 4b-9d, cols. 1:51-57, 4:4-29, 8:38-11:30).

Response to Arguments

Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasson Yoo whose telephone number is (571)272-5563. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olszewski Robert can be reached on (571)272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JHY

A handwritten signature in black ink, appearing to read 'Corbett B. Coburn', with a stylized, cursive script.

CORBETT B. COBURN
PRIMARY EXAMINER